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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/374,702	08/12/1999	ELDON E. BAIRD	238/186	4049

7590

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EXAMINER

MARSCHER, ARDIN H

ART UNIT

PAPER NUMBER

1631

DATE MAILED: 02/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/374,702

Applicant(s)

Baird et al.

Examiner
Ardin Marschel

Art Unit
1631



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed ^{as} on Examiner Interviews of 9/17/01 and 1/4/02
- 2a) ☐ This action is FINAL.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 22, and 26 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 22, and 26 is/are rejected.
- 7) ☒ Claim(s) 8-19 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

18) ☒ Interview Summary (PTO-413) Paper No(s). 19 and 20

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

It is firstly noted that the Applicants' have been willing to approve an Examiner's amendment that would overcome the previous rejections/objections of record which would amend claims 16-19 to remove the improper multiple dependence. Thus, applicants have approved the required response to the office action, mailed 7/5/01, to complete the response thereto. Such an Examiner's amendment, however, may be only entered at time of allowance. It is therefore not entered at this time. Applicants are requested to submit such amendments to claims 16-19 to remove the below reiterated improper dependence in response to this office action. This office action also adds new grounds of rejection and restarts the response time as of the mailing of this non-final office action. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

Applicants are again also hereby notified that the required timing for the correction of drawings has changed. See the last 6 lines on the sheet which was mailed with the PTO-948 form on July 5, 2001, entitled "Attachment for PTO-948 (Rev. 03/01 or earlier)". Due to the above notification Applicants are required to submit drawing corrections within the time period set for responding to this Office action. Failure to respond to this

requirement may result in abandonment of the instant application or a notice of a failure to fully respond to this Office action. Applicants have submitted revised drawings for Figures 5-10, 13, and 16-18, which are approved by the Examiner, but that the revisions did not respond to the objections of the Official Draftsman to the drawings listed on the above noted PTO-948 form. Therefore new formal drawings are still required in response to this office action as noted also above.

Claims 16-19 are objected to under 37 C.F.R. § 1.75^o as being in improper form because a multiple dependent claim can only depend from multiple other claim in the alternative. See M.P.E.P. § 608.01(n). Accordingly, claims 16-19 are not been further treated on the merits.

Claims 16-19 depend both from claim 1 as well as claims 8-11 which is improper. The suggested amendment to replace the phrase "of claim 1" in each of these claims 16-19 with all of the limitations of claim 1 would overcome this objection.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-7, 22, and 26 are rejected under 35 U.S.C. § 102(a) as being clearly anticipated by Herman et al. [JACS 120:1382(1998)].

Herman et al. discloses the polyamides of the above listed instant claims as depicted, for example, at page 1383-1385 in Figures therein. For example, on page 1383 the topmost polyamide contains a 2,4-diamino linkages which terminates at the top of the Figure with NH moieties. This linkage is of the R-configuration as noted in the chemical structural name below the topmost structure, shown as "ImPyPy-(R)...". This same type of polyamide is present in all structures in Figure 3 on pages 1384 and 1385. It is noted that a labeled polyamide as required in instant claim 22 is shown as the bottom-most structure in Figure 3 on page 1384 of the reference. Thus, this and other polyamides in the reference anticipate those instantly claimed. This rejection is at least partly based on a different inventive entity for the instant application compared to the authorship of the reference. This rejection may be overcome via a Katz type Declaration which explains and clarifies the differences in names between the instant application and the reference as to how it relates to inventorship of the instant invention.

Claims 8-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base

claim and any intervening claims.

No claim is allowed.

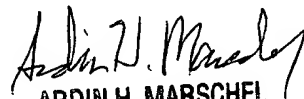
Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993) (See 37 CFR § 1.6(d)). The CM1 Fax Center number is either (703)308-4242 or (703)305-3014.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ardin Marschel, Ph.D., whose telephone number is (703)308-3894. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, Ph.D., can be reached on (703)308-4028.

Any inquiry of a general nature or relating to the status of this application should be directed to Patent Analyst, Tina Plunkett, whose telephone number is (703)305-3524 or to the Technical Center receptionist whose telephone number is (703) 308-0196.

January 4, 2002


ARDIN H. MARSCHEL
PRIMARY EXAMINER